

REMARKS

Claims 1-18 and 51-53 are pending in the application. Claims 1-18 and 51-53 have been rejected. Claims 1-18 and 51-53 have been amended.

35 U.S.C. § 101

Claims 1-18 and 51-53 are rejected under 35 U.S.C. § 101 because the claims allegedly recite a software program per se. The pending claims have been amended to the acceptable statutory class of method claims and therefore it is respectfully submitted that the rejection be withdrawn and that claims 1-18 and 51-53 be allowed.

Double Patenting

Claims 1-18 and 51-53 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being allegedly unpatentable over claims 1-40 of copending Application No. 09/679,039. A terminal disclaimer in compliance with 37 CFR 1.321 (c) is being submitted to overcome the double patenting rejection. Therefore, the Applicants respectfully submit that the double patenting rejection be withdrawn and that claims 1-18 and 51-53 be allowed.

35 U.S.C. § 103

Claims 1-18 and 51-53 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Marsh et al. (5,848,397) in view of Werkhoven (WO 99/59097). Applicants respectfully traverse the rejection.

Claim 1 as amended recites generating an obscured nag display in response to the detection of the obscured ad condition, wherein the obscured ad nag display notifies the user of

the obscured ad condition while maintaining the one or more items currently being displayed on the display.

As pointed out in the Office Action, Werkhoven discloses an Internet advertising system, where the system monitors if a user opens a window in front of the popup window which has the advertisements. If the system detects that a popup window has been blocked for a predetermined time, then the user is notified of the time limit by **returning the pop window to the frontmost position** (page 6, lines 2-5). The Werkhoven system **automatically replaces** what the user is reading with the popup window that has been obstructed. The user has no choice in the matter and the system overrides the user in the content that they are viewing.

This is in contrast to the Applicants' claimed invention where an obscured ad nag display **notifies** the user of the obscured ad condition, but **provides them with a choice** on what they want to view so that they can continue viewing the one or more items currently being displayed on the display.

In other words, the user can continue performing their current task with the current view without being subjected to the system automatically overriding the current view of the user as disclosed in Werkhoven. The Applicants' claimed invention presents the user with a choice based on a **notification** that an obscured ad condition has occurred.

Therefore, for at least these reasons, it is respectfully submitted that the rejection be withdrawn and that claim 1 be allowed.

Claims 2-18 and 51-53 recite related subject matter to claim 1 and should be allowed for at least the same reasons presented above regarding claim 1, as well as the additionally recited features found in these claims.

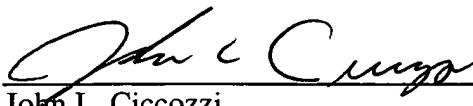
CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated: January 24, 2005

By: 
John L. Ciccozzi
Reg. No. 48,984
(858) 845-2611

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502